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EXAMINER	
THERIAULT, STEVEN B	

ART UNIT	PAPER NUMBER
2179	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/669,270

Applicant(s)

SHIOTA ET AL.

Examiner

Steven B. Theriault

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed 05/25/2007

This action is made Final.

2. Claims 1 -18 are pending in the case. Claims 1, 7, and 13 are the independent claims. Claims 2-6 and 8-18 are the amended claims. Applicant is advised that a new Examiner has been assigned to the case. The Examiner notes that the specification has been examined for the claim terminology of the amended terminology of the "computer readable storage medium" and the specification provides support in Para 0021 and 0029.

101/Claim Objections

3. Applicant's amendment to the previously objected claims along with the rejected claims under 101 as remedied the deficient issues and are considered moot in light of the current amendment.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 4, 6 – 10, 12 – 16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Murashita et al. (Publication No. 2002/0186412).

As to independent claim 1, Murashita et al. teaches:

A method for generating an album (see e.g., Para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) based on album data (see e.g., Para. [0085]; i.e., album data corresponds to attaching labels and image data to the photo taken,

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wherein the image data at least comprises of date, time, and location data) including at least one image data set (see e.g., Para. [0194] – Para. [0213]; i.e., one image data set corresponds to each individual image having its own set of image data, for instance, "Image data 1" contains date, time, place, and authorized user data associated with "Image data 1"), which has been photographed during a trip (see e.g., Para. [0194] – Para. [0197]; i.e., "Image data 1" represents a photograph taken during a trip to "Nikko Toshogu Shrine") and which has time data (see e.g., para. [0195]) representing a time of photography attached thereto (see e.g., Para. [0216], lines 1 – 6; i.e., "Image data 1" stores date and time of photographing), comprising the steps of: obtaining travel route data (see e.g., para. [0219], lines 1 – 5; i.e., traveling route reads information representing the date and time the photograph was taken, and the location where the photograph was taken to calculate the travel route), which includes data related to the route taken during the trip (see e.g., para. [0220], lines 1 – 6; i.e., the data related to the route taken during a trip corresponds to reading out both position information of two or more pictures taken, wherein the position information includes date and time, and location of where the picture has been taken) and times of passage through desired positions along the route (see e.g., para. [0023] and para. [0224], lines 1 – 6; i.e., the image data has date and time information, wherein the date and time are calculated to signify the time of passage through a desired route, such as the departure position represented by "Nikko Toshogu Shrine" to the final destination point of "Kegon-no-taki Falls"); estimating a photography location (see e.g., para. [0225], lines 1 – 4; i.e., the photography location corresponds to the travel route based on the image data) based on the travel route data and the time data (see e.g., para. [0223]; travel route data and time data corresponds to the date and time the picture was taken and the location of the picture); obtaining related data (see e.g., para. [0225], lines 7 – 8; i.e., related data corresponds to regional information from base station 40C-1 through 40C-4), related to the estimated photography location (see e.g., para. [0225]; i.e., regional information is determined by the travel route and image data), from a related data storage means (see e.g., para. [0225], line 7; i.e., information storage device is used to determine the travel route and regional information) that stores a plurality of related data sets (see e.g.,

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para. [0226], lines 1 – 3; i.e., regional information includes related data sets, such as label information and add-on information); and generating album data based on the obtained related data and the image data set (see e.g., para. [0229]; i.e., an image database or personal album is generated based on image data used for displaying travel route data, and regional information).

As to dependent claim 2, Murashita et al. teaches:

A method for generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: the travel route data is obtained based at least on data regarding (see e.g., para. [0225], lines 1 – 4; i.e., travel route data is based on the information labeled to the image data, such as when and where the picture was taken): a departure point (see e.g., para. [0224]; i.e., the departure point corresponds to “Nikko Toshogu Shrine”); a final destination (see e.g., para. [0224]; i.e., the final destination corresponds to “Kegon-no-taki Falls”); date and time of departure (see e.g., para. [0223]; i.e., the chart represents the departure date and time from “Nikko Toshogu Shrine”); date and time of arrival at the final destination (see e.g., para. [0223]; i.e., the chart represents the date and time of arrival at “Kegon-no-taki Falls”); and method of travel (see e.g., para. [0257], lines 8 – 18; i.e., the travel route data includes the method of travel, wherein the method of travel corresponds to walking).

As to dependent claim 3, Murashita et al. teaches:

A method for generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: GPS data is attached to the image data set (see e.g., para. [0134], lines 4 – 9; i.e., image data and GPS latitude and longitude position of the digital camera or mobile telephone are sent to a image data storage device 20B); and the travel route data is obtained based on the GPS data (see e.g., para. [0134], lines 6 – 8 and para. [0220], lines 1 – 7; i.e., travel route data obtained from GPS data corresponds to reading the position information of a picture, wherein the position information represents the longitude and latitude coordinates of the GPS data).

As to dependent claim 4, Murashita et al. teaches:

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A method for generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: the travel route data is obtained (see e.g., para. [0134], lines 4 – 9; i.e., travel route data corresponds to image data stored in image storage device 20B, wherein the travel route data includes date and time of picture taken, and current position of the digital camera 10B) based on location data received by a cellular telephone (see e.g., para. [0134], lines 15 – 16; i.e., GPS-equipped mobile telephone is used in conjunction with the digital camera, wherein both digital camera 10B and GPS-equipped mobile telephone transfers image data and longitude/latitude coordinates to image data storage device 20B respectively).

As to dependent claim 6, Murashita et al. teaches:

A method for generating an album as defined in claim 1, wherein: the album data is recorded in a recording medium (see e.g., para. [0122], lines 7 – 9; i.e., the recording medium used to store album data corresponds to an image database, such as image data storage device 20A, which can also be used as a user's personal album).

As to independent claim 7, claim 7 differs from claim 1 only in that claim 7 is an apparatus claim (see e.g., para. [0219], lines 1 – 3; i.e., processor device, such as a computer) using a computer storage medium (see e.g., para. [0218]; i.e., magnetic disc, optical disc, and magneto-optical disc) containing a program (see e.g., para. [0219], line 1; i.e., traveling route program 81C) that when executed, causes a processor (see e.g., para. [0219], lines 1 – 3; i.e., the traveling route program 81C instructs a processor device to determine the travel route of a plurality of image data taken at different sites) to perform the steps of claim 1. Thus, claim 7 is analyzed as previously discussed with respect to claim 1 above.

As to dependent claim 8, claim 8 differs from claim 2 only in that claim 8 is an apparatus claim (see e.g., para. [0219], lines 1 – 3; i.e., processor device, such as a computer) using a computer storage medium (see e.g., para. [0218]; i.e., magnetic disc, optical disc, and magneto-optical disc) containing a program (see e.g., para. [0219], line 1; i.e., traveling route program 81C) that when executed, causes a processor (see e.g., para. [0219], lines 1 – 3; i.e., the traveling route

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program 81C instructs a processor device to determine the travel route of a plurality of image data taken at different sites) to perform the steps of claim 2. Thus, claim 8 is analyzed as previously discussed with respect to claim 2 above.

As to dependent claim 9, claim 9 differs from claim 3 only in that claim 9 is an apparatus claim (see e.g., para. [0219], lines 1 – 3; i.e., processor device, such as a computer) using a computer storage medium (see e.g., para. [0218]; i.e., magnetic disc, optical disc, and magneto-optical disc) containing a program (see e.g., para. [0219], line 1; i.e., traveling route program 81C) that when executed, causes a processor (see e.g., para. [0219], lines 1 – 3; i.e., the traveling route program 81C instructs a processor device to determine the travel route of a plurality of image data taken at different sites) to perform the steps of claim 3. Thus, claim 9 is analyzed as previously discussed with respect to claim 3 above.

As to dependent claim 10, claim 10 differs from claim 4 only in that claim 10 is an apparatus claim (see e.g., para. [0219], lines 1 – 3; i.e., processor device, such as a computer) using a computer storage medium (see e.g., para. [0218]; i.e., magnetic disc, optical disc, and magneto-optical disc) containing a program (see e.g., para. [0219], line 1; i.e., traveling route program 81C) that when executed, causes a processor (see e.g., para. [0219], lines 1 – 3; i.e., the traveling route program 81C instructs a processor device to determine the travel route of a plurality of image data taken at different sites) to perform the steps of claim 4. Thus, claim 10 is analyzed as previously discussed with respect to claim 4 above.

As to dependent claim 12, claim 12 differs from claim 6 only in that claim 12 is an apparatus claim (see e.g., para. [0219], lines 1 – 3; i.e., processor device, such as a computer) using a computer storage medium (see e.g., para. [0218]; i.e., magnetic disc, optical disc, and magneto-optical disc) containing a program (see e.g., para. [0219], line 1; i.e., traveling route program 81C) that when executed, causes a processor (see e.g., para. [0219], lines 1 – 3; i.e., the traveling route program 81C instructs a processor device to determine the travel route of a plurality of image data taken at different sites) to perform the steps of claim 6. Thus, claim 12 is analyzed as previously discussed with respect to claim 6 above.

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As to independent claim 13:

Claim 13 incorporates substantially similar subject matter as claimed in claim 7, and are respectfully rejected along the same rationale.

As to dependent claim 14:

Claim 14 incorporates substantially similar subject matter as claimed in claim 8, and are respectfully rejected along the same rationale.

As to dependent claim 15:

Claim 15 incorporates substantially similar subject matter as claimed in claim 9, and are respectfully rejected along the same rationale.

As to dependent claim 16:

Claim 16 incorporates substantially similar subject matter as claimed in claim 10, and are respectfully rejected along the same rationale.

As to dependent claim 18:

Claim 18 incorporates substantially similar subject matter as claimed in claim 12, and are respectfully rejected along the same rationale.

Claim Rejections - 35 USC § 103

6. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

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made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **Claims 5, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murashita et al. (Publication No. 2002/0186412) in view of King et al. (Publication No. 2003/0078078).**

As to dependent claim 5, this claim is analyzed with respect to claim 1 as previously discussed above. Murashita et al. teaches generating an album (see e.g., para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) based on album data (see e.g., para. [0085]; i.e., album data corresponds to attaching labels and image data to the photo taken, wherein the image data at least comprises of date, time, and location data), but does not specifically mention the album data is stored at a website. King et al. teaches album data (see e.g., para. [0035], lines 4 – 5; i.e., the album data corresponds to picture file data associated with a picture on a mobile device) stored at a website (See e.g., para. [0035], lines 18 – 21; i.e., album data corresponds to picture files, wherein the picture files are saved to a user's website, such as a personal website or webpage). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate generating an album based on album data of Murashita et al. with album data stored on a website of King et al. because a user can access the picture or picture file at a more convenient time or from a device with a more suitable user interface for reviewing the picture (see e.g., para. [0035], lines 21 – 24).

As to dependent claim 11, claim 11 differs from claim 5 only in that claim 11 is an apparatus claim (see e.g., para. [0219], lines 1 – 3; i.e., processor device, such as a computer) using a computer storage medium (see e.g., para. [0218]; i.e., magnetic disc, optical disc, and magneto-optical disc) containing a program (see e.g., para. [0219], line 1; i.e., traveling route program 81C) that when executed, causes a processor (see e.g., para. [0219], lines 1 – 3; i.e., the traveling route program 81C instructs a processor device to determine the travel route of a plurality of

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image data taken at different sites) to perform the steps of claim 5. Thus, claim 11 is analyzed as previously discussed with respect to claim 5 above.

As to dependent claim 17:

Claim 17 incorporates substantially similar subject matter as claimed in claim 11, and are respectfully rejected along the same rationale.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

8. Applicant's arguments filed 05/23/2007 have been fully considered but they are not persuasive.

Applicant's argument that the prior art does not teach all of the claim limitations of claims 1, 7 and 13

Applicant argues that for each of claims 1, 7, and 13, the prior art of Murashita does not teach the following:

Estimating a photography location based on the travel route data and the time data; obtaining related data, related to the estimated photography location, from a related data storage means that stores a plurality of related data sets;

Because the applicant interprets the prior art of Murashita as merely attaching the location

information to the image data and not performing a process of estimating a photographic location based on the route data and then using the route data located in storage (See arguments Page 8, Top).

The Examiner disagrees.

The office maintains that the third embodiment of Murashita teaches the process of estimating the photographic location based on the travel route data. The Examiner notes, there are five embodiments in Murashita that teach similar processes and are relevant to the rejection.

However, the Examiner relied on the third embodiment, which is explained in figures 13-18 and Para 0171-0248. In the cited Para 225, Murashita teaches the process of estimating the

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photographic location on the travel route because as Murashita refers to figure 15 the regional information unit relays information regarding the pictures along a given route and the regional information is sent to the device from within the vicinity of the device. Murashita teaches the received information can be used to obtain the position without the use of the GPS or with an existing positioning system. Therefore, the regional information is an estimated location of the user as the information is in the vicinity of the user (See Para 0227 and 0228) because the system is not using actual coordinates from a locating device they are using information from the vendors in the area to determine the location of the user and further providing information in the surrounding areas based on the route of the user (See Para 220).

Moreover, Murashita contemplates in the same embodiment the use of stored locations in the system where the regional holding unit contains stored information relating to the vicinity of the user and the date and time of the image. Murashita teaches that the information may be dated based on the retrieval date but nonetheless the image data sent to the user is estimated to be relevant to the user vicinity and corresponding to where the image data was obtained and is a process of estimating a location based on the route data and time data and then obtaining related data, related to the estimated location (See Para 0244-248 and 0237-0242).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M, W, F 10:00AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SBT


WEILUN LO
SUPERVISORY PATENT EXAMINER